

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JUSTIN M. HICKOX,	:
Plaintiff,	:
v.	: Case No. 3:11-cv-78-KRG-KAP
BLAIR COUNTY, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)-(3), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on October 31, 2012, docket no. 63, recommending that the defendants' motion for summary judgment, docket no. 59, be granted, and a Report and Recommendation on November 6, 2012, docket no. 67, recommending that plaintiff's motion for summary judgment, docket no. 64, be denied. The Magistrate Judge filed a supplemental Report and Recommendation on December 3, 2012, docket no. 73.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Reports and Recommendations. Plaintiff filed timely objections, docket no. 69 and docket no. 74, which I have considered. As our Court of Appeals has observed:

There exists some point at which the degree of force used is so minor that a court can safely assume that no reasonable person could conclude that a corrections officer acted maliciously and sadistically.

Reyes v. Chinnici, 54 Fed.Appx. 44, 48 (3d Cir.2002) (affirming summary judgment in favor of a corrections officer who a jury could have found to have punched a handcuffed prisoner.) See also Burr v. Hasbrouck Heights Police Dept. 131 Fed.Appx. 799, 803 (3d Cir.2005) (affirming summary judgment in favor of defendant police officers on a Fourth Amendment claim that unreasonable force was used in arresting plaintiff because "small bruises" on her arms did not suggest objectively unreasonable force.)

After de novo review of the record, the Reports and Recommendations, and the timely objections thereto, the following order is entered:

AND NOW, this 12th day of December, 2012, it is

ORDERED that the defendants' motion for summary judgment, docket no. 59 is granted, and plaintiff's motion for summary judgment, docket no. 64, is denied. The Report and Recommendation, as supplemented, is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style with a large initial "K".

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

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